IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 69/2006

Shri Ghurco Bisso Velip and ors. ..... Appellants.

V/s.

Xri Gram Deu Laximi Naraina de Khola Devasthan, having its seat at Khola, Canacona, Goa. ..... Respondent.

Shri Amrut Kansar, Advocate for the appellants.

Shri M. S. Usgaonkar, Senior Advocate with Mr. P. Wagle, Advocate for the respondent.

CORAM : P.V. KAKADE, J.

DATE : 20TH DECEMBER, 2006.

P.C.

Heard learned Counsel for both the parties. Perused the record.

2. The unsuccessful plaintiffs have preferred this appeal against the Judgment and Order passed by the Ad hoc Additional District Judge, South Goa, Margao dismissing the appeal and confirming the Judgment and Order passed by the trial Court dismissing the plaintiffs' suit for declaration and consequential relief of injunction.

3. The plaintiffs, who are *adhivasis* of the area, have filed the suit against the defendant-Devasthan alleging that the listed temples and the properties are owned and possessed by the plaintiffs and the defendant has no right, title or interest therein and, therefore, perpetual injunction was also sought for as a consequential relief.

4. The learned trial Judge, after hearing both the parties, came to the conclusion that the plaintiffs did not prove their ownership title as well as the possession by virtue of the ownership in the landed properties and the temples and, as such, the suit came to be dismissed. The learned appellate Court, on hearing both the parties, concurred with the findings recorded by the trial Court and hence, the present appeal.

5. At the outset, it may be noted that the only question sought to be raised at this stage is that the defendant also has not proved any title of ownership and possession in the suit properties, so also the claim of ownership of temples and the properties. However, it is to be noted that the declaration, of which translation is provided for my ready reference dated 29.9.1927, is sufficient to show that the impugned properties, though unilaterally declared by the defendant, were under the

management and control of the defendant. In other words, the properties which were declared to be owned by the defendant in the year 1927 are being sought to be subjected to its dispute today by way of suit for declaration and perpetual injunction which, in my considered view, itself would be sufficient to nonsuit the plaintiffs. Moreover, it is also evident position that the plaintiffs have absolutely no evidence on record to show that they have even semblance of right, title or interest in the suit property. Merely because they are *adhivasis* and the deities involved are worshiped by them, would not be sufficient to jump to the conclusion that the temples and its properties belong to the plaintiffs by virtue of their ownership right.

6. Be that as it may, the concurrent findings recorded by the Courts below are seen to be in proper perspective and, therefore, would not deserve any interference at this stage by this Court. In the result, the appeal has no merit and dismissed with no order as to costs.

P.V. KAKADE, J.

ssm.